

Chapter 13 is also known as a reorganization. It allows you to keep property, such as a mortgaged house or car, that you otherwise might lose. Reorganization may allow you to pay off a default during a period of three to five years, rather than surrender any property.

### Here are some important features of Chapter 13 bankruptcy:

Chapter 13 bankruptcy is very powerful. You can use it to stop a house foreclosure, make up the missed mortgage payments and keep the house. You can also pay off back taxes through your Chapter 13 plan and stop interest from accruing on your tax debt.

Filing your papers with the bankruptcy court stops creditors in their tracks. When you file for Chapter 13 bankruptcy (or any other kind of bankruptcy), something called the automatic stay goes into effect. It immediately stops your creditors from trying to collect what you owe them. At least temporarily, creditors cannot legally garnish your wages; empty your bank account; go after your car, house, or other property; or cut off your utility service or welfare benefits.

Some people use Chapter 13 bankruptcy to buy time. For example, if you are behind on mortgage payments and about to be foreclosed on, you can file Chapter 13 bankruptcy papers to stop collection efforts, and then attempt to sell the house before the foreclosure.

Chapter 13 bankruptcy requires discipline. For the entire length of your case (three to five years), you will have to live under a strict budget; the bankruptcy court will not allow you to spend money on anything it deems nonessential.

The majority of debtors never complete their Chapter 13 repayment plans. Although most people file for Chapter 13 bankruptcy assuming they'll complete their plan, only about 35% of all Chapter 13 debtors do. Many drop out very early in the process, without ever submitting a feasible repayment plan to the court. If you can come up with a realistic budget and stick to it, however, you should have no trouble completing your Chapter 13 plan.

Payments may be deducted from your wages during your case. If you have a regular job with regular income, the bankruptcy court will probably order that the monthly payments under your Chapter 13 plan be automatically deducted from your wages and sent to the bankruptcy court.

Chapter 13 bankruptcy can stay in your credit file for up to ten years from the day you file your papers, although rarely are Chapter 13 bankruptcies reported for more than seven years. After your case is over, however, you can take steps to improve your credit. In fact, some Chapter 13 bankruptcy courts have established programs to help you do just that. In such a program, if you have paid off around 75% or more of your debts, you may attend money management seminars and apply for credit from certain local creditors.

### Learn whether Chapter 13 is an option for you.

Chapter 13 bankruptcy has several important restrictions. Your first step is to see whether or not you are legally allowed to use the Chapter 13 process.

#### Businesses Can't File for Chapter 13 Bankruptcy

A business, even a sole proprietorship, cannot file for Chapter 13 bankruptcy in the name of that business. Businesses are steered toward Chapter 11 bankruptcy when they need help reorganizing their debts.

If you own a business as a sole proprietor, however, you can file for Chapter 13 bankruptcy as an individual and include the business-related debts for which you are personally liable. There is one exception: Stockbrokers and commodity brokers cannot file a Chapter 13 bankruptcy case, even if just to include personal (nonbusiness) debts. (11 U.S.C. § 109(e).)

#### You Must Have Stable and Regular Income

You must have stable and regular income to be eligible for Chapter 13 bankruptcy. That doesn't mean you must earn the same amount every month. But the income must be steady -- that is, likely to continue and it must be periodic -- weekly, monthly, quarterly, semi-annual, seasonal or even annual. You can use the following income to fund a Chapter 13 plan:

- regular wages or salary
- income from self-employment
- wages from seasonal work
- commissions from sales or other work
- pension payments
- Social Security benefits
- disability or workers' compensation benefits
- unemployment benefits, strike benefits and the like
- public benefits (welfare payments)
- child support or alimony you receive
- royalties and rents, and
- proceeds from selling property, especially if selling property is your primary business.

#### You Must Have Disposable Income

For you to qualify for Chapter 13 bankruptcy, your income must be high enough so that after you pay for your basic human needs, you are likely to have money left over to make periodic (usually monthly) payments to the bankruptcy court for three to five years. The total amount you must pay will depend on how much you owe, the type of debts you have -- certain debts have to be paid in full; others don't -- and your court's attitude. A few courts allow you to repay nothing on debts, that legally, don't have to be repaid in full, as long as you repay 100% of the others. Some courts push you to repay as

close to 100% of your debts as possible. Most courts fall somewhere in between.

To determine if your disposable income is high enough to fund a Chapter 13 plan, you must create a reasonable monthly budget. If you are not proposing to repay 100% of your debts and the court, the trustee or a creditor thinks your budget is too generous -- that is, it includes expenses other than necessities -- your budget will be challenged.

#### Your Debts Must Not Be Too High

You do not qualify for Chapter 13 bankruptcy if your secured debts exceed \$807,750. A debt is secured if you stand to lose specific property if you don't make your payments to the creditor. Home loans and car loans are the most common examples of secured debts. But a debt might also be secured if a creditor -- such as the IRS -- has filed a lien (notice of claim) against your property.

In addition, for you to be eligible for Chapter 13 bankruptcy, your unsecured debts cannot exceed \$269,250. An unsecured debt is any debt for which you haven't pledged collateral. The debt is not related to any particular property you possess, and failure to repay the debt will not entitle the creditor to repossess property. Most debts are unsecured, including bank credit card debts, medical and legal bills, student loans, back utility bills and department store charges.

#### How Much do you Pay in Chapter 13?

The total amount you will have to repay your creditors over the length of a Chapter 13 case depends on a number of factors, including the type of debts you owe and the philosophy of the bankruptcy judges in your area. You can get a rough idea by following these steps.

**1. Add up the total value of your "nonexempt" property.** Each state has laws that determine which items of property are exempt in bankruptcy, and in what amounts. For instance, many states exempt health aids, "personal effects" (things such as electric shavers, hair dryers and toothbrushes), ordinary household furniture and clothing without regard to their value.

Other kinds of property are exempt up to a limit. For example, in many states, furniture or a car is exempt to several thousands of dollars. This exemption limit means that any equity in the property above the limit isn't exempt. (Equity is the market value minus how much you still owe.)

Generally, the following items are exempt:

- motor vehicles, to about \$2,000
- reasonably necessary clothing (no fur coats)
- reasonably necessary household goods and furnishings
- household appliances

jewelry, to a few hundred dollars  
personal effects  
life insurance (cash or loan value or proceeds), to about \$4,000  
part of the equity in a residence (the amount varies from state to state)  
pensions  
public benefits  
tools of a trade or profession, to a certain value, and  
unpaid but earned wages.

In a Chapter 13 case, your unsecured creditors must receive at least the value of your nonexempt property, so you will have to pay your unsecured creditors at least this amount. But this amount is the minimum, by law, that you must pay. The court will require you to pay more if:

Any of your unsecured debts are "priority debts" -- such as back taxes or child support -- which must be repaid in full.

If you have little nonexempt property and propose paying back only a small portion of your unsecured debts, those creditors might object to your plan. In some parts of the country, bankruptcy courts may approve Chapter 13 plans in which unsecured creditors receive nothing. In other areas, courts rarely approve Chapter 13 plans unless unsecured creditors receive 100% of what they are owed. Most courts fall somewhere in between.

**2. Add the amount of missed payments you owe to any secured creditors, such as mortgage or car lenders, whose property you want to keep.** Include interest at the rate specified in your contract with the creditor.

**3. Some courts require that you add an amount equal to at least three year's worth of interest on the amount in Step 1.** There are several ways to figure out the rate you might have to pay; for now use 10%. This money may be required to compensate creditors for the fact that they're getting their money over a period of years instead of all at once.

**4. Add 10% of your subtotal to cover the fee charged by the bankruptcy trustee, the person appointed by the court to oversee a bankruptcy case.**

**5. Total all the figures you've listed.** This is approximately the amount you'd have to pay in a Chapter 13 case.

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See our Brochure on Bankruptcy Facts and Chapter 7.

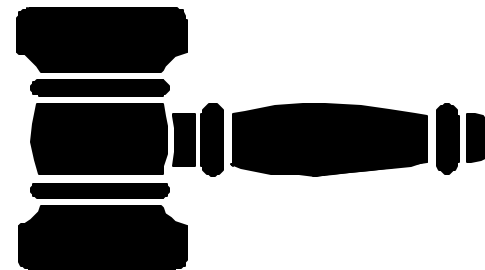
The Indiana Department of Financial Institutions, Division of Consumer Credit has many other credit related brochures available, such as:

Answers to Credit Problems  
Applying for Credit  
At Home Shopping Rights  
Bankruptcy Facts  
Buried in Debt  
Car Financing Scams  
Charge Card Fraud  
Choosing A Credit Card  
Co-Signing  
Credit and Divorce  
Credit and Older Consumers  
Deep in Debt?  
Equal Credit Opportunity  
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Call our toll-free number or write to the address on the cover for a copy of any of the brochures listed or for further consumer credit information.



# CHAPTER 13 BANKRUPTCY



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